

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BENJAMIN ARCHULETA,

Petitioner,

vs.

BILL HEDRICK and THE UNITED
STATES OF AMERICA,

Respondents.

ORDER

AND

MEMORANDUM DECISION

Case No. 2:05CV63

This matter is before the court following remand by the Eighth Circuit Court of Appeals for a hearing under 18 U.S.C. § 4247. Archuleta v. Hedrick, 365 F.3d 644, 648-49 (8th Cir. 2004).

In October of 2002, Mr. Archuleta filed a pro se petition for habeas corpus in the Western District of Missouri. This petition was dismissed for failure to exhaust all administrative remedies. Mr. Archuleta appealed the dismissal to the Eighth Circuit Court of Appeals. The Eighth Circuit concluded that Mr. Archuleta's petition had been misconstrued as pertaining to the conditions of his confinement, when it actually went to the propriety of that confinement. Id. at 648-49. Specifically, Mr. Archuleta seeks release from the Federal Medical Center in Springfield, Missouri ("FMC Springfield"). 18 U.S.C. § 4247 provides a procedure for the remedy sought by Mr. Archuleta:

Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of . . . subsection (f) of section 4243, counsel for the person or his legal guardian may, at any time during such person's hospitalization, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility[.]

18 U.S.C. § 4247(h).

Because Mr. Archuleta is in custody by reason of a commitment order by the District of Utah, the Eighth Circuit remanded Mr. Archuleta's petition with the instruction to transfer it to this court for the purpose of conducting a hearing pursuant to 18 U.S.C. § 4247 to determine whether Mr. Archuleta is entitled to release from FMC Springfield.

Accordingly, the court now requests that Chief Magistrate Judge Samuel Alba appoint counsel to represent Mr. Archuleta throughout the course of these proceedings. Counsel for the United States and for Mr. Archuleta will appear before this court on July 14, 2005, at 2:30 p.m. for a status hearing (Mr. Archuleta will not be present for this hearing).

DATED this 14th day of June, 2005.

BY THE COURT:



TENA CAMPBELL
United States District Judge